



General Assembly

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Bill No. 6702

LCO No. 3764

Referred to Committee on Human Services

Introduced by:

REP. WARD, 86th Dist.

SEN. DELUCA, 32nd Dist.

***AN ACT CONCERNING LONG-TERM CARE FACILITIES UNDER THE
JURISDICTION OF THE DEPARTMENT OF SOCIAL SERVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) Each nursing home facility, as defined in
2 section 19a-521 of the general statutes, that incurs a loss shall submit
3 audited financial statements to the Department of Social Services
4 within one hundred fifty days of the last day of the Medicaid cost
5 report period for which such loss is claimed. If a related entity owns
6 the facility's real property, such entity's audited financial statements
7 shall also be submitted in accordance with the provisions of this
8 subsection. The Commissioner of Social Services may set the lowest
9 rate paid for state-assisted nursing home residents to a nursing home
10 that fails to file completed, audited financial statements in a timely
11 manner in compliance with the provisions of this subsection.

12 (b) The commissioner may require a nursing home facility to
13 provide quarterly reports of financial, census or other information that
14 the commissioner deems necessary to determine the financial stability

15 of such nursing home.

16 Sec. 2. Subsection (a) of section 17b-239 of the general statutes is
17 repealed and the following is substituted in lieu thereof:

18 (a) The rate to be paid by the state to hospitals receiving
19 appropriations granted by the General Assembly and to freestanding
20 chronic disease hospitals, providing services to persons aided or cared
21 for by the state for routine services furnished to state patients, shall be
22 based upon reasonable cost to such hospital, or the charge to the
23 general public for ward services or the lowest charge for semiprivate
24 services if the hospital has no ward facilities, imposed by such
25 hospital, whichever is lowest, except to the extent, if any, that the
26 commissioner [in his discretion] determines that a greater amount is
27 appropriate in the case of hospitals serving a disproportionate share of
28 indigent patients. Such rate shall be promulgated annually by the
29 Commissioner of Social Services. Nothing contained herein shall
30 authorize a payment by the state for such services to any such hospital
31 in excess of the charges made by such hospital for comparable services
32 to the general public. Notwithstanding the provisions of this section,
33 for the rate period beginning July 1, 2000, rates paid to freestanding
34 chronic disease hospitals and freestanding psychiatric hospitals shall
35 be increased by three per cent. [For the rate period beginning July 1,
36 2001, and each succeeding rate period, rates paid to freestanding
37 chronic disease hospitals and freestanding psychiatric hospitals shall
38 be equal to but not exceed rates for the preceding rate period, plus an
39 inflation factor equal to the Medicare market basket inflation rate as
40 published in the previous September Federal Register of each year
41 with the wage portion of such market basket adjusted for the Hartford
42 metropolitan statistical area.] For the rate period beginning July 1,
43 2001, no freestanding chronic disease hospitals or freestanding
44 psychiatric hospitals shall receive a rate increase that is more than two
45 and one-half per cent more than the rate it received in the prior fiscal
46 year. For the rate period beginning July 1, 2002, no freestanding
47 chronic disease hospitals or freestanding psychiatric hospitals shall

48 receive a rate increase that is more than two per cent more than the
49 rate is received in the prior fiscal year.

50 Sec. 3. Subdivision (4) of subsection (f) of section 17b-340 of the
51 general statutes is repealed and the following is substituted in lieu
52 thereof:

53 (4) For the fiscal year ending June 30, 1992, (A) no facility shall
54 receive a rate that is less than the rate it received for the rate year
55 ending June 30, 1991; (B) no facility whose rate, if determined pursuant
56 to this subsection, would exceed one hundred twenty per cent of the
57 state-wide median rate, as determined pursuant to this subsection,
58 shall receive a rate which is five and one-half per cent more than the
59 rate it received for the rate year ending June 30, 1991; and (C) no
60 facility whose rate, if determined pursuant to this subsection, would be
61 less than one hundred twenty per cent of the state-wide median rate,
62 as determined pursuant to this subsection, shall receive a rate which is
63 six and one-half per cent more than the rate it received for the rate year
64 ending June 30, 1991. For the fiscal year ending June 30, 1993, no
65 facility shall receive a rate that is less than the rate it received for the
66 rate year ending June 30, 1992, or six per cent more than the rate it
67 received for the rate year ending June 30, 1992. For the fiscal year
68 ending June 30, 1994, no facility shall receive a rate that is less than the
69 rate it received for the rate year ending June 30, 1993, or six per cent
70 more than the rate it received for the rate year ending June 30, 1993.
71 For the fiscal year ending June 30, 1995, no facility shall receive a rate
72 that is more than five per cent less than the rate it received for the rate
73 year ending June 30, 1994, or six per cent more than the rate it received
74 for the rate year ending June 30, 1994. For the fiscal years ending June
75 30, 1996, and June 30, 1997, no facility shall receive a rate that is more
76 than three per cent more than the rate it received for the prior rate
77 year. For the fiscal year ending June 30, 1998, a facility shall receive a
78 rate increase that is not more than two per cent more than the rate that
79 the facility received in the prior year. For the fiscal year ending June
80 30, 1999, a facility shall receive a rate increase that is not more than

81 three per cent more than the rate that the facility received in the prior
82 year and that is not less than one per cent more than the rate that the
83 facility received in the prior year, exclusive of rate increases associated
84 with a wage, benefit and staffing enhancement rate adjustment added
85 for the period from April 1, 1999, to June 30, 1999, inclusive. For the
86 fiscal year ending June 30, 2000, each facility, except a facility with an
87 interim rate or replaced interim rate for the fiscal year ending June 30,
88 1999, and a facility having a certificate of need or other agreement
89 specifying rate adjustments for the fiscal year ending June 30, 2000,
90 shall receive a rate increase equal to one per cent applied to the rate the
91 facility received for the fiscal year ending June 30, 1999, exclusive of
92 the facility's wage, benefit and staffing enhancement rate adjustment.
93 For the fiscal year ending June 30, 2000, no facility with an interim rate,
94 replaced interim rate or scheduled rate adjustment specified in a
95 certificate of need or other agreement for the fiscal year ending June
96 30, 2000, shall receive a rate increase that is more than one per cent
97 more than the rate the facility received in the fiscal year ending June
98 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
99 facility with an interim rate or replaced interim rate for the fiscal year
100 ending June 30, 2000, and a facility having a certificate of need or other
101 agreement specifying rate adjustments for the fiscal year ending June
102 30, 2001, shall receive a rate increase equal to two per cent applied to
103 the rate the facility received for the fiscal year ending June 30, 2000,
104 subject to verification of wage enhancement adjustments pursuant to
105 subdivision (15) of this subsection. For the fiscal year ending June 30,
106 2001, no facility with an interim rate, replaced interim rate or
107 scheduled rate adjustment specified in a certificate of need or other
108 agreement for the fiscal year ending June 30, 2001, shall receive a rate
109 increase that is more than two per cent more than the rate the facility
110 received for the fiscal year ending June 30, 2000. [For the fiscal year
111 ending June 30, 2002, and any succeeding fiscal year, no facility shall
112 receive a rate that is more than the rate it received in the prior year
113 increased by the annual increase in the Consumer Price Index (all
114 urban) for the most recent calendar year.] For the fiscal year ending

115 June 30, 2002, no facility shall receive a rate increase that is more than
116 two and one-half per cent more than the rate the facility received in the
117 prior fiscal year and no facility shall receive a rate that is less than the
118 rate it received in the prior fiscal year. For the fiscal year ending June
119 30, 2003, no facility shall receive a rate increase that is more than two
120 per cent more than the rate the facility received in the prior fiscal year
121 and no facility shall receive a rate that is less than the rate it received in
122 the prior fiscal year. The Commissioner of Social Services may exclude
123 fair rent from any rate increase maximums established pursuant to this
124 subdivision for a facility which has undergone a material change in
125 circumstances related to fair rent.

126 Sec. 4. Subdivision (11) of subsection (f) of section 17b-340 of the
127 general statutes is repealed and the following is substituted in lieu
128 thereof:

129 (11) For the fiscal year ending June 30, 1992, and any succeeding
130 fiscal year, no less than one-half of the initial amount payable in June
131 by the state to a facility pursuant to this subsection shall be paid to the
132 facility in June and the balance of such amount shall be paid in July.

133 Sec. 5. Subsection (g) of section 17b-340 of the general statutes is
134 repealed and the following is substituted in lieu thereof:

135 (g) For the fiscal year ending June 30, 1993, any intermediate care
136 facility for the mentally retarded with an operating cost component of
137 its rate in excess of one hundred forty per cent of the median of
138 operating cost components of rates in effect January 1, 1992, shall not
139 receive an operating cost component increase. For the fiscal year
140 ending June 30, 1993, any intermediate care facility for the mentally
141 retarded with an operating cost component of its rate that is less than
142 one hundred forty per cent of the median of operating cost
143 components of rates in effect January 1, 1992, shall have an allowance
144 for real wage growth equal to thirty per cent of the increase
145 determined in accordance with subsection (q) of section 17-311-52 of
146 the regulations of Connecticut state agencies, provided such operating

147 cost component shall not exceed one hundred forty per cent of the
148 median of operating cost components in effect January 1, 1992. Any
149 facility with real property other than land placed in service prior to
150 October 1, 1991, shall, for the fiscal year ending June 30, 1995, receive a
151 rate of return on real property equal to the average of the rates of
152 return applied to real property other than land placed in service for the
153 five years preceding October 1, 1993. For the fiscal year ending June 30,
154 1996, and any succeeding fiscal year, the rate of return on real property
155 for property items shall be revised every five years. The commissioner
156 shall, upon submission of a request, allow actual debt service,
157 comprised of principal and interest, in excess of property costs allowed
158 pursuant to section 17-311-52 of the regulations of Connecticut state
159 agencies, provided such debt service terms and amounts are
160 reasonable in relation to the useful life and the base value of the
161 property. For the fiscal year ending June 30, 1995, and any succeeding
162 fiscal year, the inflation adjustment made in accordance with
163 subsection (p) of section 17-311-52 of the regulations of Connecticut
164 state agencies, shall not be applied to real property costs. For the fiscal
165 year ending June 30, 1996, and any succeeding fiscal year, the
166 allowance for real wage growth as determined in accordance with
167 subsection (q) of section 17-311-52 of the regulations of Connecticut
168 state agencies, shall not be applied. For the fiscal year ending June 30,
169 1996, and any succeeding fiscal year, no rate shall exceed three
170 hundred seventy-five dollars per day unless the commissioner, in
171 consultation with the Commissioner of Mental Retardation,
172 determines after a review of program and management costs, that a
173 rate in excess of this amount is necessary for care and treatment of
174 facility residents. For the fiscal year ending June 30, 2002, no
175 intermediate care facility for the mentally retarded shall receive a rate
176 increase that is more than two and one-half per cent more than the rate
177 it received in the prior fiscal year. For the fiscal year ending June 30,
178 2003, no intermediate care facility for the mentally retarded shall
179 receive a rate increase that is more than two per cent more than the
180 rate it received in the prior fiscal year.

181 Sec. 6. Section 17b-346 of the general statutes is repealed and the
182 following is substituted in lieu thereof:

183 (a) Effective October 1, 1991, every chronic and convalescent
184 nursing home, chronic disease hospital associated with a chronic and
185 convalescent nursing home, and rest home with nursing supervision,
186 that participates in the medical assistance program provided in Title
187 XIX of the Social Security Act shall, as a condition of participation in
188 said program, if eligible, maintain or execute a provider agreement
189 with the Secretary of Health and Human Services to participate in the
190 Medicare program under Title XVIII of the Social Security Act to the
191 same extent that the facility participates in the Title XIX medical
192 assistance program. [However, such facility may seek the approval of
193 the Department of Social Services to have a larger portion of its facility
194 certified for the Title XIX medical assistance program than for the Title
195 XVIII Medicare program if the facility is certified for a distinct part
196 pursuant to the Title XVIII Medicare program and the facility
197 demonstrates to the satisfaction of the department that the number of
198 beds in the distinct part will be adequate to ensure access to Title XVIII
199 Medicare certified beds to all eligible Title XVIII recipients who might
200 reasonably be expected to seek admission to, or return to, such
201 facility.]

202 (b) The commissioner may issue a rate for any facility which fails to
203 comply with the provisions of this section provided such rate may not
204 be lower than the lowest rate paid to a facility for the same level of
205 care.

206 Sec. 7. Section 17b-352 of the general statutes is repealed and the
207 following is substituted in lieu thereof:

208 (a) For the purposes of this section and section 17b-353, "facility"
209 means a residential facility for the mentally retarded licensed pursuant
210 to section 17a-277 and certified to participate in the Title XIX Medicaid
211 program as an intermediate care facility for the mentally retarded, a
212 nursing home, rest home or residential care home, as defined in section

213 19a-490.

214 (b) Any facility which intends to (1) [~~transfer~~] change all or part of
215 [~~its~~] the ownership or control [~~prior to being initially licensed;~~] of the
216 entity that operates the facility or the entity that owns the facility's real
217 property or after being licensed under the provisions of section 19a-
218 493, (2) introduce any additional function or service into its program of
219 care or expand an existing function or service, [~~;~~ or] (3) terminate a
220 service or decrease substantially its total bed capacity, or (4) increase
221 indebtedness secured by the nursing facility's real property by an
222 amount in excess of the net asset value of the operating entity
223 combined with, if applicable, the entity that owns the facility's real
224 property shall submit a complete request for permission to implement
225 such [~~transfer,~~] change in ownership, increase such indebtedness,
226 implement such addition, expansion, increase, termination or decrease
227 with such information as the department requires to the Department of
228 Social Services. Such requests shall be submitted to the department at
229 least ninety days prior to the anticipated date of such action, except in
230 the case of requests to increase indebtedness which shall be submitted
231 sixty days prior to such action.

232 (c) An applicant, prior to submitting a certificate of need
233 application, shall request, in writing, application forms and
234 instructions from the department. The request shall include: (1) The
235 name of the applicant or applicants; (2) a statement indicating whether
236 the application is for (A) a new, additional, expanded or replacement
237 facility, service or function, (B) a termination or reduction in a
238 presently authorized service or bed capacity or (C) any new, additional
239 or terminated beds and their type; (3) the estimated capital cost; (4) the
240 town where the project is or will be located; and (5) a brief description
241 of the proposed project. Such request shall be deemed a letter of intent.
242 No certificate of need application shall be considered submitted to the
243 department unless a current letter of intent, specific to the proposal
244 and in accordance with the provisions of this subsection, has been on
245 file with the department for not less than ten business days. For

246 purposes of this subsection, "a current letter of intent" means a letter of
 247 intent on file with the department for not more than one hundred
 248 eighty days. A certificate of need application shall be deemed
 249 withdrawn by the department, if a department completeness letter is
 250 not responded to within one hundred eighty days.

251 (d) The department shall review a request made pursuant to
 252 subsection (b) of this section to the extent it deems necessary,
 253 including, but not limited to, in the case of a proposed [transfer]
 254 change of ownership or control prior to [initial licensure, the financial
 255 responsibility and business interests of the transferee and the ability of
 256 the facility] or after being licensed under the provisions of section 19a-
 257 493, the information submitted to the Department of Public Health
 258 pursuant to sections 19a-491a and 19a-493, or in the case of increased
 259 indebtedness, as described in subsection (b) of this section, and in the
 260 case of a proposed change of ownership or control prior to or after
 261 being licensed under the provisions of section 19a-493, the adequacy of
 262 the financial resources of the proposed licensee or owner of the real
 263 property to continue to provide needed services and meet federal and
 264 state certification and licensing requirements including repairs and
 265 improvements required by the Department of Public Health following
 266 a change of ownership inspection, or in the case of the addition or
 267 expansion of a function or service, ascertaining the availability of the
 268 function or service at other facilities within the area to be served, the
 269 need for the service or function within the area and any other factors
 270 the department deems relevant to a determination of whether the
 271 facility is justified in adding or expanding the function or service. The
 272 commissioner shall grant, modify or deny the request within ninety
 273 days of receipt thereof, except as otherwise provided in this section. In
 274 the case of a request to increase indebtedness, the commissioner shall
 275 grant, modify or deny the request within sixty days or such request
 276 shall be deemed approved. Upon the request of the applicant, the
 277 review period may be extended for an additional fifteen days if the
 278 department has requested additional information subsequent to the
 279 commencement of the commissioner's review period. The director of

280 the office of certificate of need and rate setting may extend the review
281 period for a maximum of thirty days if the applicant has not filed in a
282 timely manner information deemed necessary by the department. The
283 applicant may request and shall receive a hearing in accordance with
284 section 4-177 if aggrieved by a decision of the commissioner.

285 (e) The Commissioner of Social Services shall not approve any
286 requests for beds in residential facilities for the mentally retarded
287 which are licensed pursuant to section 17a-227 and are certified to
288 participate in the Title XIX Medicaid Program as intermediate care
289 facilities for the mentally retarded, except those beds necessary to
290 implement the residential placement goals of the Department of
291 Mental Retardation which are within available appropriations.

292 (f) The Commissioner of Social Services shall adopt regulations, in
293 accordance with chapter 54, to implement the provisions of this
294 section. The commissioner shall implement the standards and
295 procedures of the Office of Health Care Access concerning certificates
296 of need established pursuant to section 19a-643, as appropriate for the
297 purposes of this section, until the time final regulations are adopted in
298 accordance with said chapter 54.

299 Sec. 8. Subsection (a) of section 17b-354 of the general statutes is
300 repealed and the following is substituted in lieu thereof:

301 (a) Except for applications deemed complete as of August 9, 1991,
302 the Department of Social Services shall not accept or approve any
303 requests for additional nursing home beds or modify the capital cost of
304 any prior approval for the period from September 4, 1991, through
305 June 30, [2002] 2007, except (1) beds restricted to use by patients with
306 acquired immune deficiency syndrome or traumatic brain injury; (2)
307 beds associated with a continuing care facility which guarantees life
308 care for its residents; and (3) Medicaid certified beds to be relocated
309 from one licensed nursing facility to another licensed nursing facility,
310 provided (A) the availability of beds in an area of need will not be
311 adversely affected by the nursing facility closure or bed reduction; (B)

312 no such relocation shall result in an increase in state expenditures; and
313 (C) the relocation results in a reduction in the number of nursing
314 facility beds in the state. The Department of Social Services may accept
315 requests for additional nursing home beds from nursing facilities that
316 received certificate of need approval to reduce such beds. Such bed
317 additions shall be less than the number of beds previously reduced.
318 Notwithstanding the provisions of this subsection, any provision of the
319 general statutes or any decision of the Office of Health Care Access, (i)
320 the date by which construction shall begin for each nursing home
321 certificate of need in effect August 1, 1991, shall be December 31, 1992,
322 (ii) the date by which a nursing home shall be licensed under each
323 such certificate of need shall be October 1, 1995, and (iii) the imposition
324 of such dates shall not require action by the Commissioner of Social
325 Services. Except as provided in subsection (c) of this section, a nursing
326 home certificate of need in effect August 1, 1991, shall expire if
327 construction has not begun or licensure has not been obtained in
328 compliance with the dates set forth in subparagraphs (i) and (ii) of this
329 subsection. For the period from July 1, 2001, to June 30, 2007, no
330 nursing facility beds licensed as rest home with nursing supervision
331 beds shall be converted to chronic and convalescent nursing facility
332 beds.

333 Sec. 9. Section 17b-355 of the general statutes is repealed and the
334 following is substituted in lieu thereof:

335 In determining whether a request submitted pursuant to sections
336 17b-352 to 17b-354, inclusive, will be granted, modified or denied, the
337 Commissioner of Social Services shall consider the following: The
338 relationship of the request to the state health plan, the financial
339 feasibility of the request and its impact on the applicant's rates and
340 financial condition, the contribution of the request to the quality,
341 accessibility and cost-effectiveness of health care delivery in the region,
342 whether there is clear public need for the request, the relationship of
343 any proposed change to the applicant's current utilization statistics, the
344 business interests of all owners, partners, associates, incorporators,

345 directors, sponsors, stockholders and operators and the personal
 346 background of such persons, and any other factor which the
 347 department deems relevant. Whenever the granting, modification or
 348 denial of a request is inconsistent with the state health plan, a written
 349 explanation of the reasons for the inconsistency shall be included in
 350 the decision. [The] In considering whether there is clear public need for
 351 any request for additional nursing home beds associated with a
 352 continuing care facility submitted pursuant to section 17b-354, the
 353 commissioner shall only consider the need for beds for current and
 354 prospective residents of the continuing care facility. In considering
 355 whether there is clear public need for any request for the relocation of
 356 beds, the commissioner shall [not grant a request for additional
 357 nursing facility beds unless] consider whether there is a demonstrated
 358 bed need in the towns within [twenty miles] a fifteen mile radius of the
 359 town in which the beds are proposed to be located. [, including the
 360 town of the proposed location, as listed in the March 1, 1974, Official
 361 Mileage Table of the Public Utilities Commission.] Bed need shall be
 362 based on the percentage occupancy of area nursing facilities and
 363 projected no more than five years into the future at ninety-seven and
 364 one-half per cent occupancy using the latest official population
 365 projections by town and age as published by the Office of Policy and
 366 Management and the latest available state-wide nursing facility
 367 utilization statistics by age cohort from the Department of Public
 368 Health. The commissioner may also consider area specific utilization
 369 and reductions in utilization rates to account for the increased use of
 370 less institutional alternatives.

371 Sec. 10. Section 19a-537 of the general statutes is repealed and the
 372 following is substituted in lieu thereof:

373 (a) As used in this section and section 19a-537a:

374 (1) "Vacancy" means a bed that is available for an admission;

375 (2) "Nursing home" means any chronic and convalescent facility or
 376 any rest home with nursing supervision, as defined in section 19a-521;

377 [(3) "Level of care" means the level of care that the person was
378 assigned in the nursing home at the time of discharge to the hospital;]

379 [(4)] (3) "Hospital" means a general short-term hospital licensed by
380 the Department of Public Health or a hospital for mental illness, as
381 defined in section 17a-495, or a chronic disease hospital, as defined in
382 section 19-13-D1(a) of the Public Health Code.

383 (b) A nursing home shall:

384 (1) Reserve the bed of a self-pay resident of such facility who is
385 absent from the facility due to hospitalization whenever payment is
386 available to reserve the bed;

387 (2) Inform the self-pay resident and [his] such resident's relatives or
388 other responsible persons, upon admission of a person to the facility
389 and upon transfer of a resident to a hospital, that the bed of a resident
390 will be reserved as long as payment is available to the facility to
391 reserve the bed and that if payment is not made, the resident will be
392 admitted to the next available bed;

393 (3) Reserve the bed of a resident who is a recipient of medical
394 assistance when the resident is absent from the facility for home leave
395 days authorized under the Medicaid program;

396 (4) Inform the resident who is a recipient of medical assistance and
397 [his] such resident's relatives or other responsible persons, upon
398 admission of a person to the nursing home and upon transfer of a
399 resident to a hospital of the conditions under which the Department of
400 Social Services requires the nursing home to reserve the bed of a
401 resident and that if the home is not required to reserve the bed, the
402 resident will be admitted to the next available bed; and

403 (5) Not make the bed reserved for a hospitalized resident available
404 for use by any other person unless the nursing home records in such
405 resident's medical record the medical reasons justifying the change in
406 such resident's bed, and the necessity of making the change before the

407 resident's return to the facility, provided no resident's bed shall be
408 changed if (A) such a change is medically contraindicated as defined in
409 subsection (a) of section 19a-550; or (B) if the resident does not consent
410 to the change, except when the change is made (i) to protect the
411 resident or others from physical harm; (ii) to control the spread of an
412 infectious disease; or (iii) to respond to a physical plant or
413 environmental emergency that threatens the resident's health or safety.
414 In the case of such an involuntary change of a resident's bed,
415 disruption of residents shall be minimized, notice shall be provided to
416 the resident or representative within twenty-four hours after the
417 change and, if practicable, the resident, if he or she wishes, shall be
418 returned to his or her room when the threat to health or safety which
419 prompted the transfer has been eliminated. When a resident's bed is
420 changed without his or her consent to protect the resident or others
421 from physical harm, a consultative process shall be established on the
422 first business day following the resident's return to the facility. The
423 consultative process shall include the participation of the attending
424 physician, a registered nurse with responsibility for the resident, other
425 appropriate staff in disciplines as determined by the resident's needs
426 and the participation of the resident, [his] such resident's family or
427 other representative. The consultative process shall determine what
428 caused the change in bed, whether the cause can be removed and, if
429 not, whether the facility has attempted alternatives to the change. The
430 resident shall be informed of the risks and benefits of the change in
431 bed and of any alternatives.

432 (c) A nursing home shall reserve, for at least fifteen days, the bed of
433 a resident who is a recipient of medical assistance and who is absent
434 from such home due to hospitalization unless the nursing home
435 documents that it has objective information from the hospital
436 confirming that the patient will not return to the nursing home [at the
437 same level of care] within fifteen days of the hospital admission
438 including the day of hospitalization.

439 (d) The Department of Social Services shall reimburse a nursing

440 home at the per diem Medicaid rate of the facility for each day that the
441 facility reserves the bed of a resident who is a recipient of medical
442 assistance in accordance with the following conditions:

443 (1) A facility shall be reimbursed for reserving the bed of a resident
444 who is hospitalized for a maximum of seven days including the
445 admission date of hospitalization, if on such date the nursing home
446 documents that (A) it has a vacancy rate of not more than three beds or
447 three per cent of licensed capacity, whichever is greater, [at the same
448 level of care as the hospitalized person,] and (B) it contacted the
449 hospital and the hospital failed to provide objective information
450 confirming that the person would be unable to return to the nursing
451 home [at the same level of care] within fifteen days of the date of
452 hospitalization.

453 (2) The nursing home shall be reimbursed for a maximum of eight
454 additional days provided:

455 (A) On the seventh day of the person's hospital stay, the nursing
456 home has a vacancy rate that is not more than three beds or three per
457 cent of licensed capacity, whichever is greater; [, at the same level of
458 care as the hospitalized person,] and

459 (B) Within seven days of the hospitalization of a resident who is a
460 recipient of medical assistance, the nursing home has contacted the
461 hospital for an update on the person's status and the nursing home
462 documents such contact in the person's file and that the information
463 obtained through the contact does not indicate that the person will be
464 unable to return to the nursing home [at the same level of care] within
465 fifteen days of hospitalization.

466 (3) A facility shall be reimbursed for reserving the bed of a resident
467 who is absent for up to twenty-one days of home leave as authorized
468 under the Medicaid program if on the day of such an absence the
469 facility documents that it has a vacancy rate of not more than four beds
470 or four per cent of licensed capacity, whichever is greater. [, at the

471 same level of care as the resident so absent.] No facility shall require or
472 request a resident who is a recipient of medical assistance to provide
473 payment for such authorized home leave days, whether or not such
474 payment is available from the department.

475 (e) If a resident's hospitalization exceeds the period of time that a
476 nursing home is required to reserve the resident's bed or the nursing
477 home is not required to reserve the resident's bed under this section,
478 the nursing home:

479 (1) Shall provide the resident with the first bed available at the time
480 the nursing home receives notice of the resident's discharge from the
481 hospital;

482 (2) Shall grant the resident priority of admission over applicants for
483 first admission to the nursing home;

484 (3) May charge a fee to reserve the bed, not exceeding the facility's
485 self-pay rate for the unit in which that resident resided, or not
486 exceeding the per diem Medicaid rate for recipients of medical
487 assistance, whichever charge is applicable, for the number of days
488 which the resident is absent from the facility.

489 Sec. 11. Section 19a-537a of the general statutes is repealed and the
490 following is substituted in lieu thereof:

491 Compliance with section 19a-537 shall be monitored by the
492 department on a postaudit basis or whenever a complaint is received
493 and its provisions shall be enforced as follows:

494 (1) The Department of Social Services is authorized to impose a
495 penalty not greater than eight thousand five hundred dollars for each
496 violation of said section 19a-537.

497 (2) The department shall recoup payments made to a nursing home
498 for reserve-bed days when it is determined that: The nursing home
499 made the bed assigned to a hospitalized resident available to another

500 person; [.] or the nursing home was reimbursed for reserve bed days
501 after it had objective information indicating that the hospitalized
502 person would not return to the nursing home; [at the same level of
503 care;] or the nursing home failed to provide a resident with the first
504 available bed or grant a resident priority of admission as required by
505 subsection (e) of said section 19a-537; or the nursing home failed to
506 document the appropriate vacancy rate or hospital contact. If the
507 payments have already been made, the department may set off the
508 amount of the payments against any other payments due to the
509 nursing home.

510 (3) The department may impose a penalty upon a facility pursuant
511 to subdivision (1) of this section or recoup any payments from a facility
512 pursuant to subdivision (2) of this section, regardless of whether a
513 change in ownership of the facility has taken place since the time of the
514 violation, provided the department has issued notice of the alleged
515 violation and the accompanying penalty or recoupment prior to the
516 effective date of the change in ownership and record of such notice is
517 readily available in a central registry maintained by the department.

518 (4) Prior to imposing any penalty pursuant to subdivision (1) of this
519 section or recouping any payments pursuant to subdivision (2) of this
520 section, the Department of Social Services shall notify the nursing
521 home of the alleged violation and the accompanying penalty or
522 recoupment, and shall permit such facility to request an administrative
523 hearing, in accordance with sections 4-177 to 4-181, inclusive. A facility
524 shall request such hearing within fifteen days of receipt of the notice of
525 violation from the Department of Social Services. The department shall
526 stay the imposition of any penalty or recoupment pending the
527 outcome of the administrative hearing.

528 Sec. 12. This act shall take effect July 1, 2001.

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]